REMARKS

Assignee respectfully requests reconsideration and allowance in view of the foregoing

amendment and the following remarks. Claims 39 – 54 remain pending in this application.

Rejection of Claims 39-54 Under 35 U.S.C. §103(a)

The Office Action newly rejects claims 39-54 under 35 U.S.C. §103(a) as being

unpatentable over Beach et al. (U.S. Patent No. 6,728,713) ("Beach") in view of Andros et al.

(U.S. Patent No. 5,045,850) ("Andros") and further in view of Ritter (U.S. Patent No. 7,395,031)

("Ritter").   This ground of rejection is respectfully traversed.

The Office action has failed to establish a *prima facie* case of unpatentability. According

to MPEP § 2143:

> To establish a prima facie case of obviousness, three basic criteria must be met. First,
> there must be some suggestion or motivation, either in the references themselves or in the
> knowledge generally available to one of ordinary skill in the art, to modify the reference
> or to combine reference teachings. Second, there must be a reasonable expectation of
> success. Finally, the prior art reference (or references when combined) **must teach or
> suggest all the claim limitations**. (emphasis added).

The Office Action fails to show that the proposed combination of prior art references

teach or suggest all the claim limitations. Specifically, the Office action alleges that Beach

discloses detecting a need for performance content by determining that stored content is out of

date, citing col. 6, lines 35 – 56 and col. 15, lines 4 – 11. However, these passages do not

disclose the claimed limitation. Beach does not disclose determining whether stored content is

out of date as an indication of a need for performance content, but instead compares an inventory

of previously received slices from a client device with a list of slices that should have been

processed, and then transmits slices which were not processed to the client. Col. 2, lines 59 -65.

Manifestly, slices which were not processed do not constitute "stored content" because such

slices do not exist at the client. Beach further discloses that the source version of a received

object is compared with the source version of the current object when an object is received, and

that if the received object has a higher source version attribute then it is copied over the current

object, otherwise it is discarded. Col. 3, lines 17 – 23. Thus, there is no determination in Beach

of a <u>need</u> for performance content that triggers selection of a process for obtaining the

performance content, as set forth in the claims. Rather, objects are transmitted to and received

by the client <u>prior</u> to any determination of need, as evidenced by the client <u>discarding</u> un-needed

received objects upon determination that the source version of the received object is not higher

than the source version of the current object already stored at the client.

Further, Beach does not teach generating a pseudo-live performance by mixing content

corresponding to a portion of the performance content with other content, as set forth in the

claims. Instead, Beach discloses that television viewing objects within the received slice are

filtered for applicability and possibly being added to the local television viewing object database.

Col. 12, lines 20 - 24. The local database is not a "pseudo-live performance" and thus there is

no "mixing content" of a pseudo-live performance involved in adding a television viewing object

to a local database. Similarly, adding a television viewing object to the local database does not

constitute "generating a pseudo-live performance."

The Office action relies on Andros for the proposition that it would have been obvious to

update different types of content at different rates. Office Action, page 4. To the contrary,

Andros is directed to a paging network for generating pages at a page source storing subscriber

files. Andros discloses that a subscriber could elect to have sports scores transmitted

periodically, or updated weather reports could be transmitted to persons who desire to have

updated weather information. There is no disclosure in Andros of a user electing to receive

"different types of content at different frequencies" as alleged in the Office Action. Instead,

Andros discloses only that a subscriber may elect to receive certain services provided by the

page source. The user does not specify the frequency at which the services are transmitted or

received, and Andros does not draw any distinction between the timing or frequency of

transmitting information to pager subscribers based on content or otherwise. In any event, the

Andros paging network is irrelevant to the distributed database management system of Beach.

The pager of Andros is not analogous to the client device of Beach, such that no one of skill in

the art would have sought to modify the Beach distributed database management system with

election of services provided by a paging network.

Finally, the Office action alleges that Ritter "teaches receiving geographic coordinates

from a GPS receiver based on a predefined range of coordinates for location parameters," and

from this concludes that it would have been obvious "to use a GPS in the system that identifies

the location with a range of coordinates of a user in order for the system to provide content to the

user that is related to and associated with the user's global location." This conclusion is in error.

Ritter discloses providing a position locating module to a mobile device, which can

determine the current geographic position of the mobile device. The module obtains position

indications from GPS signals received at a GPS receiver, or it can obtain position indications

from a terrestrial positioning system or from a mobile network. The module sends the

determined current position to a filter module. The filter module compares the determined

current position with program-accompanying data from a radio receiver, and compares location

parameters contained in the program-accompanying data with the current position. The module

determines that there is agreement if the geographic coordinates of the program-accompanying

data and the determined current position are either identical or are within a predefined range.

This feature has nothing to do with the claimed invention and nothing to do with Beach.

The claims set forth selecting a process for obtaining the performance content from at

least one of a plurality of performance transmitters based on a range of global positioning system

(GPS) coordinates that can receive a broadcasting signal from the at least one of the plurality of

performance transmitters. Ritter does not disclose selection of any transmitter based on any range of GPS coordinates that can receive a broadcast signal. Ritter discloses that program-accompanying data can be ignored by the filter module if such data either do not contain location parameters or whose location parameters do not coincide with the current position. Further, Beach discloses a single central site database from which slices are replicated and transmitted to distributed client systems. Beach does not disclose different central databases for client systems located in different geographical positions. Thus, no combination of Ritter with Beach would result in the claimed invention wherein performance content is obtained from at least one of a plurality of performance transmitters based on a range of global positioning system (GPS) coordinates that can receive a broadcasting signal from the at least one of the plurality of performance transmitters.

Therefore, claims 39-54 are patentable and in condition for allowance.

CONCLUSION

Having addressed all rejections and objections, the subject application is in condition for allowance and a Notice to that effect is earnestly solicited. If necessary, the Commissioner for Patents is authorized to charge or credit the **Novak, Druce & Quigg, LLP, Account No. 14-1437** for any deficiency or overpayment.

Respectfully submitted,

Date: May 17, 2010

By: _____

Correspondence Address:
Customer No. 83224

Thomas M. Isaacson
Attorney for Applicants
Reg. No. 44,166
Phone: 410-286-9405
Fax No.: 410-510-1433